

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 489
Committee Substitute Favorable 4/15/21
Committee Substitute #2 Favorable 5/6/21

Short Title: 2021 Building Code and Dev. Reg. Reform.

(Public)

Sponsors:

Referred to:

April 5, 2021

A BILL TO BE ENTITLED
AN ACT TO PROVIDE VARIOUS BUILDING CODE AND DEVELOPMENT
REGULATORY REFORMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 87-10 reads as rewritten:

"§ 87-10. Application for license; examination; certificate; renewal.

(a) Anyone seeking to be licensed as a general contractor in this State shall submit an application. Before being entitled to an examination, an applicant shall:

- (1) Be at least 18 years of age.
- (2) Possess good moral character as determined by the Board.
- (3) Provide evidence of financial responsibility as determined by the Board.
- (4) Submit the appropriate application fee.
- (5) Consent to a criminal background check if required by the Board.

(a1) The Board shall require an applicant to pay the Board or a provider contracted by the Board an examination fee not to exceed one hundred dollars (\$100.00). ~~In addition,~~in addition to the costs of any criminal background check, the Board shall also require an applicant to pay the Board a fee not to exceed one hundred twenty-five dollars (\$125.00) if the application is for an unlimited license, one hundred dollars (\$100.00) if the application is for an intermediate license, or seventy-five dollars (\$75.00) if the application is for a limited license. The fees accompanying any application or examination shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to one million dollars (\$1,000,000), excluding the cost of land and any ancillary costs to improve the land; the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to five hundred thousand dollars (\$500,000), excluding the cost of land and any ancillary costs to improve the land. The license certificate shall be classified in accordance with this section.

(a2) In determining an applicant's qualifications for licensure, the Board may utilize a criminal background check. If the Board uses a criminal background check, the provisions of G.S. 93B-8.1 shall apply. The Board shall keep all information obtained from criminal background checks privileged in accordance with applicable State law and federal guidelines, and the information shall be confidential and not a public record under Chapter 132 of the General Statutes.

(a3) Records, papers, and other documentation containing personal information collected or compiled by the Board in connection with an application for examination, licensure,



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certification, or renewal or reinstatement, or the subsequent update of information shall not be considered public records within the meaning of Chapter 132 of the General Statutes.

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SECTION 1.(b) G.S. 87-10.2 reads as rewritten:

"§ 87-10.2. Continuing education.

...

(b) Of the eight hours of annual continuing education required by this section, two hours shall be a mandatory course approved by the Board and the remaining six hours shall be elective courses approved by the Board. Each qualifier or qualifying party shall complete the mandatory course each year. Each qualifier or qualifying party may accumulate and carry forward up to four hours of elective course credit to the next calendar year. The Board shall evaluate and approve:

- (1) The content of continuing education courses.
- (2) Accreditation of continuing education sponsors and programs.
- (3) Computation of credit.
- (4) General compliance procedures.
- (5) Providers and instructors of continuing education courses.

(c) All ~~prospective~~ Board-approved providers of the mandatory course shall register Board-approved instructors affiliated with the provider to attend a training program established, approved, and administered by the Board to ensure the quality and consistency of mandatory course information. All prospective providers of elective courses shall submit course materials and instructor qualifications for Board evaluation, approval, and accreditation.

(d) Continuing education credit hours may only be given for courses that are taught live by an instructor approved by the Board. To receive credit, a qualifier or qualifying party shall attend and view the live teaching of the course and shall certify this requirement in the manner required by the Board. Only the period of live instruction shall apply to the satisfaction of the continuing education requirement established by this section. Continuing education providers shall certify the attendance of course attendees and shall transmit the qualifier or qualifying party's certification to the Board. For the purposes of this subsection, "live instruction" includes credit hours presented by video or by Internet transmission of a live or previously recorded and approved presentation by an approved instructor or instructors provided the presentation is either proctored by the approved ~~sponsor-provider~~ or contains safeguards as approved by the Board that allow the approved ~~sponsor-provider~~ to certify that the qualifier or qualifying party has viewed the presentation. The Board shall implement procedures to ensure that qualifiers and qualifying parties may satisfy all of the continuing education requirements of this section through approved Internet-based e-learning courses offered by approved providers by Internet transmission.

(e) False certification of attendance shall be grounds for the suspension or revocation of the course provider's privilege to provide courses in this State. The Board may take disciplinary action against any ~~licensee on account of a licensee, qualifier, or qualifying party~~ for false certification of attendance by that licensee's qualifier or qualifying party at any continuing education course.

(f) The Board shall maintain and distribute to licensees and qualifiers, as appropriate, records of the required educational coursework successfully completed by each qualifier or qualifying party, including the subject matter and the number of hours of each course.

...

(h) Any licensee who chooses not to complete the annual continuing education as required by this section may annually request that the Board place the licensee's license in an inactive status and the license shall become ~~invalid~~ invalid for that license year. However, in order for the license to be maintained as inactive, the licensee shall pay the same annual renewal fee paid by active licensees. Should the licensee desire to return to active status, the qualifier or qualifying party of the licensee shall satisfactorily complete the following continuing education requirements prior to seeking reinstatement:

(1) If the licensee seeks reinstatement during the first two years after the license becomes inactive, the qualifier or qualifying party shall complete eight hours of continuing education, including the mandatory course offered during the year of reinstatement.

(2) If the licensee seeks reinstatement more than two years after the license becomes inactive, the qualifier or qualifying party shall complete 16 hours of continuing education, including the mandatory course offered during the year of reinstatement.

(i) The Board shall establish nonrefundable fees for the purpose of administering the continuing education program. The Board may charge the ~~sponsor~~ provider of a proposed course a nonrefundable fee not to exceed twenty-five dollars (\$25.00) per credit hour for the initial review of the course and a nonrefundable fee of twelve dollars and fifty cents (\$12.50) per credit hour for the annual renewal of a course previously approved. The Board shall require an approved course provider to pay a fee, not to exceed five dollars (\$5.00) per credit hour per qualifier or qualifying party, for each qualifier or qualifying party completing an approved continuing education course conducted by that provider.

...."

SECTION 1.(c) G.S. 87-13.1 reads as rewritten:

"§ 87-13.1. Board may seek injunctive relief; ~~relief~~; attorney's fee.

Whenever the Board determines that any person, firm or corporation has violated or is violating any of the provisions of this Article or rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the violation; and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation. ~~The~~ When the Board prevails in actions brought under this section, the court may shall award the Board its reasonable attorney's fee not to exceed five thousand dollars (\$5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation."

SECTION 1.(d) The State Licensing Board for General Contractors shall adopt temporary rules to implement G.S. 87-10, as amended by Section 1(a) of this act, and G.S. 87-10.2, as amended by Section 1(b) of this act. Notwithstanding G.S. 150B-21.1(d), the temporary rules required by this act shall remain in effect until the effective date of the permanent rules adopted to replace these temporary rules. The Board is exempt from the fiscal note requirement of G.S. 150B-21.4 in adopting rules to implement this section.

SECTION 1.(e) Section 1(a) of this act becomes effective January 1, 2022, and applies to applications for licensure submitted on or after that date. Section 1(b) of this act becomes effective January 1, 2022, and applies to continuing education hours required on or after that date. Section 1(c) of this act becomes effective when the act becomes law and applies to actions brought by the Board on or after that date. Except as otherwise provided, this section is effective when it becomes law.

SECTION 2. G.S. 143-138 reads as rewritten:

"§ 143-138. North Carolina State Building Code.

...

(d1) Cost-Benefit Analysis. – When the Building Code Council revises or amends the North Carolina State Building Code as provided in subsection (d) of this section and considers an economic analysis or cost-benefit analysis of the proposed revision or amendment, the Council shall not limit its review to an economic analysis or cost-benefit analysis submitted by the proponent of the proposed revision or amendment but shall either conduct its own economic analysis or cost-benefit analysis or consider an economic analysis or cost-benefit analysis submitted other than by the proponent of the proposed revision or amendment. This section shall

not apply to a proposal for revision or amendment made upon motion of the Council or submitted by a State agency or political subdivision of the State.

(e) Effect upon Local Codes. – Except as otherwise provided in this section, the North Carolina State Building Code shall apply throughout the State, from the time of its adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However, any political subdivision of the State may adopt a fire prevention code and floodplain management regulations within its jurisdiction. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in ~~G.S. 160A-360~~ G.S. 160D-202 or a local act; county jurisdiction shall include all other areas of the county. No such code or regulations, other than floodplain management regulations and those permitted by ~~G.S. 160A-436, G.S. 160D-1128,~~ shall be effective until they have been officially approved by the Building Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations may regulate all types and uses of buildings or structures located in flood hazard areas identified by local, State, and federal agencies, and include provisions governing substantial improvements, substantial damage, cumulative substantial improvements, lowest floor elevation, protection of mechanical and electrical systems, foundation construction, anchorage, acceptable flood resistant materials, and other measures the political subdivision deems necessary considering the characteristics of its flood hazards and vulnerability. In the absence of approval by the Building Code Council, or in the event that approval is withdrawn, local fire prevention codes and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the State Building Code, ~~shall~~ may be approved. Local governments may enforce the fire prevention code of the State Building Code using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in ~~G.S. 160A-434, G.S. 160D-1127.~~

A local government may not adopt any ordinance in conflict with the exemption provided by subsection (c1) of this section. No local ordinance or regulation shall be construed to limit the exemption provided by subsection (c1) of this section.

...."

SECTION 3.(a) G.S. 160A-306 reads as rewritten:
"§ 160A-306. Building setback lines.

...

(b) Any setback line shall be ~~designed~~ designed:

- (1) To promote the public safety by providing adequate sight distances for persons using the street and its sidewalks, lessening congestion in the street and sidewalks, facilitating the safe movement of vehicular and pedestrian traffic on the street and sidewalks and providing adequate fire lanes between ~~buildings, and~~ buildings.
- (2) To protect the public health by keeping dwellings and other structures an adequate distance from the dust, noise, and fumes created by traffic on the street and by insuring an adequate supply of light and air.

(3) To provide that, notwithstanding subsection (a) of this section, measurements for sight distances at street intersections, including sight triangles, must begin within the roadway or edge of pavement of a proposed or existing street.

...."

SECTION 3.(b) G.S. 160D-922 reads as rewritten:

"§ 160D-922. Erosion and sedimentation control.

Any local government may enact and enforce erosion and sedimentation control regulations as authorized by Article 4 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter. Fees charged by a local government under its erosion and sedimentation control program shall not exceed that authorized in G.S. 113A-60(a)."

SECTION 4.(a) G.S. 160D-1104(d) reads as rewritten:

"(d) Except as provided in G.S. 160D-1115 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code. When a subsequent inspection is conducted to verify completion or correction of instances of Code noncompliance, any additional violations of the Code noted by the inspector on items already approved by the inspections department may delay the issuance of a temporary certificate of occupancy, but the inspections department shall not charge a fee for reinspection of those items."

SECTION 4.(b) This section is effective when it becomes law and applies to inspections conducted on or after that date.

SECTION 5.(a) G.S. 113A-54.1 is amended by adding a new subsection to read:

"(f) For land-disturbing activities on a single-family residential lot involving new construction with land disturbance of less than one acre where the builder or developer is the owner of the lot being developed and the person financially responsible for the land-disturbing activity, the financial responsibility for land-disturbing activity on that lot transfers to the new owner upon the builder's or developer's conveyance of the lot to the new owner, recording of the deed in the office of the register of deeds, and notification to the office or local program that approved the erosion control plan."

SECTION 5.(b) G.S. 113A-54.2(d) reads as rewritten:

"(d) ~~This section may not limit the existing G.S. 113A-60 governs the authority of local programs approved pursuant to this Article to assess fees for the approval review of erosion and sedimentation control plans.~~"

SECTION 5.(c) G.S. 113A-60 reads as rewritten:

"§ 113A-60. Local erosion and sedimentation control programs.

(a) A local government may submit to the Commission for its approval an erosion and sedimentation control program for its ~~jurisdiction, and to this end local governments are authorized to jurisdiction and may~~ adopt ordinances and regulations necessary to establish and enforce erosion and sedimentation control programs. An ordinance adopted by a local

government may establish a fee for the review of an erosion and sedimentation control plan and related activities. The fee shall be calculated on the basis of either the number of acres disturbed or in the case of a single-family lot in a residential development or common plan of development that is less than one acre set at no more than one hundred dollars (\$100.00) per lot developed.

Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. ~~An~~ Except as otherwise provided in this Article, an ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this Article.

(a1) Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

...

(b1) When a development project contains an approved erosion control plan for the entire development, a separate erosion control plan shall not be required by the local government for development of individual residential lots within that development that disturb less than one acre if the developer and the builder are the same financially responsible person. For review of an erosion control plan for a single-family lot in a common plan of development under this subsection where the developer and builder are different, the local government may require no more than the following information:

- (1) Name, address, telephone number, and email of owner of lot being developed.
- (2) Street address of lot being developed.
- (3) Subdivision name.
- (4) Lot number.
- (5) Tax parcel number of lot being developed.
- (6) Total acreage of lot being developed.
- (7) Total acreage disturbed.
- (8) Anticipated start and completion date.
- (9) Person financially responsible.
- (10) Signature of person financially responsible.
- (11) Existing platted survey of the lot.
- (12) A sketch plan showing erosion control measures for the lot being developed, but the sketch shall not be required to be under the seal of a licensed engineer, landscape architect, or registered land surveyor unless there is a design feature requiring such under federal or State law or regulation.

(b2) Except as may be required by federal law, rule, or regulation, a local erosion control program under this Article shall provide for all of the following:

- (1) That no periodic self-inspections or rain gauge installation is required on individual residential lots where less than one acre is being disturbed on each lot.
- (2) For a land-disturbing activity on more than one residential lot where the total land disturbed exceeds one acre, the person conducting the land-disturbing activity may submit for approval a single erosion control plan for all of the disturbed lots or may submit for review and approval under subsection (b1) of this section the erosion control measures for each individual lot.

(b3) No development regulation under Chapter 160D of the General Statutes or any erosion and sedimentation control plan under a local program shall require any of the following:

- (1) A silt fence or other erosion control measure to be placed in a location where, due to the contour and topography of the development site, that erosion control measure would not substantially and materially retain the sediment generated

by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract.

(2) A wire-backed reinforced silt fence where, due to the contour and topography of the development site, that fence would not substantially and materially retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract.

...."

SECTION 5.(d) G.S. 113A-61.1 is amended by adding a new subsection to read:

"(d) The damage or destruction of a silt fence occurring during land-disturbing activities or construction on a development project shall not be assessed a civil penalty under this Article provided that the silt fence is repaired or replaced within the compliance period noted in the inspection report or Notice of Violation."

SECTION 5.(e) Section 5(c) of this act becomes effective July 1, 2021, and applies to erosion control plans submitted for review and approval on or after that date. The remainder of this section is effective when it becomes law.

SECTION 6.(a) Definitions. – As used in this section, "Council" means the North Carolina Building Code Council, and "Code" means the current North Carolina Building Code collection, and amendments to the Code, as adopted by the Council.

SECTION 6.(b) Code Amendment. – Until the effective date of the Code amendment that the Council is required to adopt pursuant to this section, the Council and Code enforcement officials enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Section D107 of the 2018 North Carolina Fire Code and other provisions that relate to fire apparatus access roads for one- or two-family dwelling residential developments.

SECTION 6.(c) Implementation. – Notwithstanding any provision of the Code or law to the contrary, the Council and Code enforcement officials shall not require an automatic sprinkler system in one- or two-family dwellings where there are fewer than 100 dwelling units on a single public or private fire apparatus access road with access from one direction.

SECTION 6.(d) Additional Rulemaking Authority. – The Council shall adopt a rule to amend Section D107 of the 2018 North Carolina Fire Code consistent with subsection (c) of this section. Notwithstanding G.S. 143-136(c), the Residential Code Committee within the Council shall consider the amendment required by this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 6.(e) Effective Date. – This section is effective when it becomes law.

SECTION 6.(f) Sunset. – This section expires on the date that rules adopted pursuant to subsection (d) of this section become effective.

SECTION 7.(a) Definitions. – As used in this section, "Council" means the North Carolina Building Code Council, and "Code" means the current North Carolina Building Code collection, and amendments to the Code, as adopted by the Council.

SECTION 7.(b) Code Amendment. – Until the effective date of the Code amendments that the Council is required to adopt pursuant to this section, the Council and Code enforcement officials enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to water service pipe material and standard conformance under Section P2906.4 and Table P2906.4 of the 2018 North Carolina Residential Code, and Section 605.3 and Table 605.3 of the 2018 North Carolina Plumbing Code.

SECTION 7.(c) Implementation. – Notwithstanding any provision of the Code or law to the contrary, for the purposes of the water service pipe material and standard conformance

requirements under Section P2906.4 and Table P2906.4 of the 2018 North Carolina Residential Code, and Section 605.3 and Table 605.3 of the 2018 North Carolina Plumbing Code, the American Water Works Association (AWWA) C900 standard is an acceptable standard for polyvinyl chloride (PVC) plastic pipe.

SECTION 7.(d) Additional Rulemaking Authority. – The Council shall adopt a rule to amend Section P2906.4 and Table P2906.4 of the 2018 North Carolina Residential Code and Section 605.3 and Table 605.3 of the 2018 North Carolina Plumbing Code consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 7.(e) Effective Date. – This section is effective when it becomes law.

SECTION 7.(f) Sunset. – This section expires on the date that rules adopted pursuant to subsection (d) of this section become effective.

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.